

REGULATION RECOMMENDATIONS FOR CANNABIS ADVISORY BOARD LAW ENFORCEMENT SUBCOMMITTEE

General issue:

Establishing baseline data is critical to accurate post-implementation analysis, outcome measures and improved regulations for all involved agencies, vendors and other organizations.

Recommended language:

Baseline Data could be broadly defined to mean all relevant pre-implementation data, from any state or local law enforcement, labor, environmental, public health or other regulatory agency, including, but not limited to: data regarding adult and juvenile arrest; prosecution and incarceration rates for prosecutable offenses involving cannabis, pursuant to M.G.L. Ch. 94C and 90; adult and juvenile recreational cannabis use; cannabis addiction rates, etc.

(We may be able to use the method used by the Criminal Justice Commission for implementation of the Pew Results First model.)

Specific law enforcement concerns:

Issue:

Excessive security measures and prohibitive security costs for smaller business owners

Recommended language:

Security measures as set forth elsewhere in this Chapter shall represent the minimum requirements for all RMDs

Pursuant to Section 14 of Chapter 94G, as amended, security funding grants shall be made available to otherwise qualified RMDs where financial incapacity is demonstrated as the sole barrier to successful licensure. The Executive Office of Housing and Economic Development, jointly with The Executive Office of Public Safety and Security, shall review applications and award such grants.

Issue:

Address the need for a centralized resource for information sought by consumers, law enforcement, private and governmental agencies
Concerning rules, requirements and implementation of the law.

Recommended language:

Create an Implementation and Enforcement Division with the Department of Revenue. There should be representation within the Division from the

Public Health and Public Safety Secretariats or their agency designees. See: [www.colorado.gov>enforcement](http://www.colorado.gov/enforcement) for potential scope and website content.

Issue:

How to ensure consumers do not exceed legal possession limits, either as a result of variable weights in edibles, concentrates and plants or through multiple purchases.

Recommended language:

Note: Colorado and Oregon use the honor system and do not proactively police this issue at all. One only needs a state-issued ID to make a purchase and multiple purchases are allowed. I suspect that 5th Amendment, privacy and resource concerns played a significant roll in that decision. Colorado regulations include a seemingly unqualified right of retailers to refuse to seek to any consumer.

Recommend that MA regulation include a “refuse to sell” provision, wait a year and gather some data before deciding whether proactive oversight of this issue warrants further consideration.

If it does, the Subcommittee can consider possible, e.g. a semi-blind system whereby the RMV can assign an unique identifying number to every license and state-issued ID card that can be bar coded and scanned every time a purchase is made. This would require a notification mechanism in the database to alert retailers that that “number” has reached the purchase limit.

Issue:

Vendor accountability. Should M.G.L. Ch. 138, Section 69 (Dram Shop Act) be amended to include sales of cannabis?

Recommendation:

The Dram Shop Act is a law that makes a retailer civilly liable for injuries resulting from the sale of alcohol to an obviously intoxicated person. Unlike alcohol, which can be consumed outside the home in licensed establishments, cannabis use is restricted. Still, the appropriate vendor response to an already impaired consumer is a legitimate question.

I suggest we raise the issue with the Commission because vendors do have a duty of responsibility to the public, but note that they should consider the impact of cannabis consumption restrictions on the degree of civil liability imposed.

Massachusetts does recognize “social host liability” which applies to those who make alcohol available to persons under the age of 21, if those

persons subsequently cause harm to others. HB3818 does expand that liability to include cannabis.